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18 **UNITED STATES DISTRICT COURT**
19 **NORTHERN DISTRICT OF CALIFORNIA**
OAKLAND DIVISION

20 KARUK TRIBE OF CALIFORNIA,)
21)
Plaintiff,)
22 v.)
23 UNITED STATES FOREST SERVICE;)
MARGARET BOLAND, Forest Supervisor,)
24 Klamath National Forest,)
25)
Federal Defendants,)
26 and)
27 THE NEW 49ers, Inc. and RAYMOND KOONS,)
28 Defendant-Intervenors.)

Civ. No. 04-4275 (SBA)

**STIPULATION AND JOINT
REQUEST REGARDING
BRIEFING OF DEFENDANTS'
MOTION TO STAY
PLAINTIFF'S FEE PETITION**

1 Stipulation Regarding Briefing of Defendants' Motion to Stay, Civ. No. 04-4275 (SBA)

2 COME NOW defendants the United States Forest Service ("Forest Service") and Margaret
3 Boland in her official capacity as Forest Supervisor of the Klamath National Forest (collectively,
4 "Federal Defendants") and plaintiff the Karuk Tribe of California ("Plaintiff"), and pursuant to Local
5 Rule 6.2(a) stipulate as follows:

6 1. This action involved challenges to suction dredge mining operations on the Klamath
7 National Forest. On April 22, 2005, the parties entered a stipulation resolving a portion of Plaintiff's
8 claims. [Docket No. 50]. The parties then briefed the merits of Plaintiff's remaining claims. On July 1,
9 2005, the Court denied Plaintiff's motion for summary judgment. [Docket No. 104]. The Court
10 entered final judgment in favor of Federal Defendants on July 11, 2005. [Docket No. 105]. Plaintiff
11 filed a notice of appeal on September 9, 2005. Plaintiff's appeal is pending.

12 2. On October 7, 2005, Plaintiff filed a petition seeking attorneys' fees and costs pursuant
13 to the Equal Access to Justice Act ("EAJA").

14 3. Defendants' opposition to Plaintiff's fee petition is currently due January 16, 2006.

15 4. Defendants believe that consideration of Plaintiff's fee petition should be stayed pending
16 the outcome of this matter on appeal, and are filing concurrently a motion requesting such relief.
17 Plaintiff opposes Defendants' motion to stay.

18 5. Under the ordinary timing provisions of Local Rules 7-2 and 7-3, Defendants' motion
19 to stay would not be heard until after Defendants' brief in opposition to Plaintiff's fee petition is due.
20 The parties agree that resolution of the Defendants' motion to stay in advance of date Defendants'
21 opposition to Plaintiffs' fee petition is due will save both litigant and judicial resources.

22 6. The parties therefore stipulate, subject to the Court's approval, to brief Defendants'
23 motion to stay Plaintiff's fee petition on the following expedited schedule:

- | | | |
|-------|----------------------------|-------------------|
| 24 a. | Defendants' Motion to Stay | November 9, 2005 |
| 25 b. | Plaintiff's Opposition | December 5, 2005 |
| 26 c. | Defendant's Reply | December 12, 2005 |

7. The parties do not request oral argument on Defendants' motion to stay, and they agree that, unless the Court deems otherwise, this matter may be decided under Local Rule 7-1(b) without oral argument.

8. The parties respectfully ask that the Court expedite its consideration of Defendant's motion to stay.

Respectfully submitted this 9th day of November 2005,

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Attorneys for Defendants.

THE FOREGOING STIPULATION
 IS APPROVED AND IS SO ORDERED

DATED: November 14, 2005


 SAUNDRA BROWN ARMSTRONG
 UNITED STATES DISTRICT JUDGE

CERTIFICATE OF SERVICE

I hereby certify that on November 9, 2005, I electronically filed the foregoing STIPULATION REGARDING BRIEFING OF DEFENDANTS' MOTION TO STAY, with the Clerk of the Court using the CM/ECF system, which will send notification of such filing to the following:

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